

FRIDAY UPDATE—APRIL 13, 2006

*The final update of the activities of the Indiana General Assembly
A publication of the Indiana Judicial Center*

FINAL LEGISLATIVE UPDATE

Due to the holiday this Friday, the “Friday Update” is being sent out early. This final legislative update contains summaries of select bills of interest that were signed into law this session. The legislative digest for all bills passed this session can be found at http://www.in.gov/legislative/reports/2006/DIGEST_OF_ENACTMENTS.PDF. If you would like to see the entire text of any law, you can find that information at <http://www.in.gov/apps/lisa/session/billwatch/billinfo>.

CIVIL LAW

S.E.A. 296, P.L. 105, *Punitive Damages*

Effective July 1, 2006

Permits the attorney general's office to negotiate and compromise the portion of a punitive damages award that is to be paid to the state. Provides that the state's interest in a punitive damages award is effective when a finder of fact announces a verdict that includes punitive damages.

H.E.A. 1010, P.L. 163, *Eminent Domain*

Effective July 1, 2006

Requires a condemnor, before proceeding to acquire property by use of eminent domain, to: (1) establish a proposed purchase price; (2) provide the owner with an appraisal or other evidence used to establish the proposed purchase price; and (3) conduct a good faith negotiation with the owner of the property. Extends time periods that apply to certain eminent domain procedures. Provides that a property owner may receive litigation expenses, including reasonable attorney's fees, in an amount not to exceed the lesser of: (1) \$25,000; or (2) the fair market value of the property; if the property owner is awarded greater compensation at trial than was offered in the condemnor's last settlement offer. Specifies that certain persons authorized to exercise eminent domain may do so only to accomplish the essential delivery of services. Provides that if a condemnor fails to: (1) take possession of property the condemnor acquired through the use of eminent domain; and (2) adapt the property for the purpose for which it was acquired; not later than six years after the payment of the award or judgment for damages occurs, the condemnor forfeits all rights in the property as if the procedure to take the property had not begun.

CRIMINAL LAW

S.E.A. 6, P.L. 139, *Sex offenders* Effective March 24, 2006 (§9, 11), July 1, 2006 (§1-8, 10)

Provides that a sexually violent predator who commits an offense after June 30, 2006, must be placed on lifetime parole when the person's term of imprisonment is completed. Specifies that a sexually violent predator in another state whose parole is transferred to Indiana may also be required to be placed on lifetime parole. Provides that if a person being supervised on lifetime parole is also required to be supervised by a probation department or similar agency, the probation department or similar agency may have sole supervision of the person if the parole board finds that supervision by the probation department or other agency will be at least as

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stringent as effective as supervision by the parole board. Prohibits a sexually violent predator from obtaining a waiver for certain residency restrictions imposed as a part of probation or parole. Requires a sexually violent predator placed on lifetime parole to wear a GPS monitoring device. Requires the sentencing policy study committee to study issues related to sex offenders, including: (1) lifetime parole; (2) GPS monitoring; (3) a classification system for sex offenders; (4) recidivism; and (5) treatment. Adds a psychiatrist or psychologist to the sentencing policy study committee as a nonvoting advisor.

S.E.A. 12, P.L. 140, *Sex offenders, registry oversight*

Effective March 24, 2006 (§1, 45, 47), July 1, 2006 (§2-44, 46)

Transfers oversight of the sex offender registry from the criminal justice institute to the department of correction (DOC). Eliminates the sex and violent offender directory, transfers its functions to the sex offender registry, and requires the criminal justice institute to seek grants to support the sex offender registry. Removes a provision requiring a sex offender to register using a "registration form" and requires the DOC to establish a format for registration. Requires the DOC to inform and train judges, prosecuting attorneys, law enforcement officials, and others in the sex offender registration procedure. Requires that the sex offender registry be updated daily and be available on the Internet, requires incarcerated sex offenders to register before being released, and shortens certain registration periods. Establishes a procedure for determining which out of state sex offenders residing in Indiana are required to register and how long they are required to register. Permits the DOC to reduce good time credit for a sex offender who does not participate in a sex offender treatment program or who does not register before being released from incarceration. Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Imposes additional registration and notification requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours. Requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year. Requires a sex offender to possess a valid driver's license or state identification card. Requires a sex offender who temporarily resides in transitional housing to register once every seven days, and requires a local law enforcement authority to personally visit the listed address of a sex offender. Provides various penalties for violations of these provisions. Makes conforming amendments. Expands the definition of a "sexually violent predator" to include persons over 18 years of age who commit certain offenses and persons who commit an offense for which they must register as a sex offender who have a prior conviction for an offense for which they would be required to register as a sex offender. Prohibits a sexually violent predator from working or volunteering on school property, at a public park or youth program center, or at an amusement attractive to children. Prohibits certain sex offenders from residing within: (1) 1,000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Requires certain persons not committed to the department of correction to submit a DNA sample. Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Permits a court or the parole board to prohibit a probationer or parolee

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who has been convicted of stalking from residing within 1,000 feet of the home of the victim. Provides various penalties for violations of these provisions. Makes it a Class D felony to rent matter that is harmful to a minor within 500 feet of a school or church. **Also includes the same provisions found in S.E.A. 6.**

S.E.A. 83, P.L. 143, *Resisting Arrest*

Effective July 1, 2006

Requires a mandatory minimum nonsuspendible sentence for a person who commits resisting law enforcement and: (1) draws or uses a deadly weapon, inflicts bodily injury on or causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person; (2) operates a vehicle in a manner that causes serious bodily injury to another person; or (3) operates a motor vehicle in a manner that causes the death of another person. The minimum sentence is: 30 days for the first resisting arrest offense, 180 days for the second resisting arrest offense, and 1 year for the third resisting arrest offense.

S.E.A. 84, P.L. 60, *Reentry Courts*

Effective July 1, 2006

Establishes a procedure for approval of reentry courts under courts having felony, misdemeanor, or juvenile jurisdiction. Authorizes reentry courts to have jurisdiction over and to provide reintegration services for reasonable fees to persons released from the department of correction. Allows the board of directors of the judicial conference of Indiana to delegate rulemaking functions concerning reentry courts and drug courts to a committee of the judicial conference.

S.E.A. 145, P.L. 94, *Vehicle Forfeiture and OWI*

Effective July 1, 2006

Permits the forfeiture of a motor vehicle operated by a person who has at least two “previous convictions of operating while intoxicated” if the person commits an IC 9-30-5-1 through 5 intoxicated operation offense or the offense of operating a motor vehicle with a suspended driver's license. Provides that a motor vehicle that is not owned by the person or the spouse of the person who unlawfully operated it may not be seized unless the owner knew that the vehicle would be unlawfully operated. Prohibits the bureau of motor vehicles from registering a motor vehicle in the name of a person whose motor vehicle has been forfeited until the person proves that the person possesses a current driving license. Provides that for IC 9-30-5 alcohol- or drug-impaired driving offenses, persons with a prior conviction within the preceding 5 years who are given probationary driving privileges cannot operate a motor vehicle unless it is equipped with an ignition interlock device, and provides that if a court orders installation of an interlock device under 9-30-5-10(d) as described above the order must require the device for six months. Also, requires (1) that the Class C infraction for refusing a breath test becomes Class A if the person has a previous conviction of operating while intoxicated and (2) that the driving privilege suspension for this Class A infraction must be for two years, not one.

S.E.A. 192, P.L. 97, *Bail*

Effective July 1, 2006

Amends IC 35-33-8-3.2(a) (bail varieties other than the 10% cash bail deposit under subsection (b)) to allow a court to impose “any combination” of the surety bond, cash or securities deposit, or real estate bond options authorized as bail under subsection (a). Authorizes the court imposing subsection (a) cash deposit bail to require the defendant or the person making the deposit on defendant's behalf to “execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution

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that the court may order the defendant to pay if the defendant is convicted.” (Note-subsection (b) 10% cash bail deposit may be taken for “fines, costs, fees, and restitution” but not for “publicly paid costs of representation.”)

S.E.A. 246, P.L. 6, *Sex offenders*

Effective July 1, 2006

Specifies that a sex offender's principal residence is the residence where the offender spends the most time. Expands the definition of a "sexually violent predator" to include persons above the age of 18 who commit an offense against a child less than 12, persons with certain prior convictions, and persons who used deadly force, used a deadly weapon, or caused serious bodily injury in the commission of a sex offense. Prohibits a sexually violent predator from working or volunteering on school property or at a public park or youth program center. Prohibits certain sex offenders from residing within: (1) 1000 feet of a school, public park, or youth program center; or (2) one mile of the victim's residence. Provides that the DNA exception to the statute of limitations for Class B, C, and D felonies applies when DNA analysis provides evidence sufficient to charge a person with an offense. (Currently the DNA exception applies when DNA analysis permits the discovery of the offender's identity.) Adds crimes committed in other states that are substantially similar to certain Indiana sex crimes to the list of underlying offenses that permit a person to be charged as a repeat sexual offender. Provides various penalties for violations of these provisions.

S.E.A. 275, P.L. 39, *Forensic Diversion*

Effective July 1, 2006

Expands sanctions for failure to complete forensic diversion programs to include ordering all or part of the suspended or stayed nonsuspendible part of a sentence to be executed, modifying the sentence, or ordering the person to serve all or part of the suspended or stayed part of the sentence in either a DOC or a county work release program. Additional option for persons on probation for suspendible sentences is revocation of probation.

H.E.A. 1028, P.L. 189, *Firearms and Self Defense*

Effective July 1, 2006

Provides that there is no duty to retreat in the following situations in which a person is justified in using deadly force: (1) when the person reasonably believes force is necessary to prevent serious bodily injury or the commission of a forcible felony; (2) when the person reasonably believes the force is necessary to prevent or terminate another's unlawful entry or attack on the person's dwelling, curtilage, or an occupied motor vehicle; or (3) if the person reasonably believes the force is necessary to prevent hijacking of an aircraft in flight.

H.E.A. 1108, P.L. 75, *Aggressive Driving*

Effective July 1, 2006

Defines "aggressive driving" as commission of at least three of the following in one episode of continuous driving: following too closely, unsafe operation, overtaking on the right, unsafe stopping or slowing, unnecessary sounding of the horn, failure to yield, failure to obey traffic control, driving at unsafe speed, and repeatedly flashing headlights. Makes aggressive driving done knowingly or intentionally with the intent to harass or intimidate a person in another vehicle a Class A misdemeanor. Provides that criminal recklessness is a D felony if the defendant committed aggressive driving that resulted in serious bodily injury and a C felony if the defendant committed aggressive driving that resulted in a death. For the existing provision that criminal recklessness is a Class C felony when committed by shooting a firearm into an

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inhabited dwelling or other building or place where people are likely to gather, removes the present limitation that the shooting have been done from a vehicle.

H.E.A. 1155, P.L. 173, *Sex offenders, delivering contraband to inmates, pretrial services fee, human and sexual trafficking*

Effective March 24, 2006 (§1, 60, 62), July 1, 2006 (§2-59,61)

Contains the same provisions as S.E.A. 6 and S.E.A. 12. Makes delivering contraband directly or indirectly to an inmate who is outside of a penal institution a Class A misdemeanor. Makes the offense a Class D felony if the contraband is a controlled substance and a Class C felony if the contraband is an item that may be used as a weapon. (*The “delivering contraband to an inmate” provision was originally in SB 299*).

Authorizes a court to require a repeat offender who is placed on bail and supervised by a probation officer or pretrial services agency to pay a pretrial services fee to defray the cost of supervision by the probation department or pretrial services agency if the person has the financial ability to pay the fee and the court finds by clear and convincing evidence that supervision by the probation department or pretrial services agency is necessary to ensure: (1) the defendant's appearance in court; or (2) the physical safety of another person or the community. Specifies that the pretrial services fee does not apply in city or town courts. Provides that the fee is divided between the county supplemental adult probation services fund and the county supplemental public defender services fund. Prohibits the bureau of motor vehicles from issuing or reinstating the license of a person who has not paid the person's pretrial services fee upon the person's conviction. Specifies that an order to pay the fee is immediately terminated if a defendant is acquitted or charges are dropped, and makes other changes relating to the collection and distribution of the fee. (*The “pretrial services fee” provision was originally in HB 1016*).

Makes it promotion of human trafficking, a Class B felony, for a person to recruit, harbor, or transport another person to: (1) engage the other person in forced labor or involuntary servitude; or (2) force the other person into marriage or prostitution. Makes it sexual trafficking of a minor, a Class A felony, for certain individuals to sell or transfer custody of a child less than 18 years of age for the purpose of prostitution. Makes it human trafficking, a Class C felony, for a person to pay for an individual whom the person knows has been forced into forced labor, involuntary servitude, or prostitution. Requires a court to order a person convicted of a human and sexual trafficking offense to pay restitution to the victim of the offense. Establishes a civil cause of action for victims of human and sexual trafficking offenses. Requires law enforcement officers and the division of family resources to provide certain assistance to victims of human and sexual trafficking offenses. Adds human and sexual trafficking crimes to the list of crimes that: (1) invoke certain procedures for evidence concerning protected persons; (2) can be a crime of domestic violence; (3) can be murder if a person is killed during the commission of the crime; and (4) can be a "racketeering activity". Requires the sentencing policy study committee to study issues related to human trafficking. Requires the law enforcement training board to establish minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. (*The “human and sexual trafficking” provisions were originally in HB 1120 and HB 1414*).

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H.E.A. 1281, P.L. 129, *Domestic Violence*

Effective July 1, 2006

Amends the domestic battery offense to include among the previous unrelated convictions which elevate the offense to a D felony those convictions from other jurisdictions for which the elements are substantially similar to those in the Indiana offense. Also makes the offense a D felony if committed in the presence of a child less than sixteen “knowing that the child was present and might be able to see or hear the offense.” Creates a D felony offense of strangulation.

FAMILY & JUVENILE LAW

S.E.A. 12, P.L. 140 *Guardians*

Effective July 1, 2006

A juvenile court may not appoint a person, as guardian or custodian a person, who is a sexually violent predator or appoint a person eighteen (18) years of age or older when the person committed child molesting or sexual misconduct with a minor against a child under sixteen (16) years of age by use of deadly force, armed with a deadly weapon or that resulted in serious bodily injury. (Other sections of this bill are reviewed in the Criminal Law section.)

S.E.A. 39, P.L. 13, *Legal Settlement*

Effective July 1, 2006

Provides that the parent granted physical custody of a child, or a student, if the student is at least eighteen (18) years of age, may, not later than fourteen (14) days before the first student day of the school year, elect the legal settlement in the school corporation of the student’s mother or father. This election may only be made on a yearly basis and no transfer tuition is required to be paid by the parent or student making this election. Makes conforming amendments.

S.E.A. 40, P.L. 50, *Notice of Relocation*

Effective July 1, 2006

Requires a relocating individual to file a notice of intent to move with the clerk of the court that issued the custody or parenting time order or has jurisdiction over the legal proceedings concerning the custody or parenting time of the child and send a copy of the notice to any nonrelocating individual. Provides the notice must be sent to the nonrelocating individual by registered or certified mail and not later than ninety (90) days in advance of the move. The notice must contain the address, mailing address of the relocating individual, the home telephone number of the new residence, the date of the move, a brief statement about the specific reasons for the proposed relocation of the child, a proposed revised schedule of parenting time or grandparent visitation, a statement a parent must file an objection to the relocation not later than sixty (60) days after receiving the notice, a statement the nonrelocating individual may file a petition to modify custody, parenting time, grandparent visitation or child support. Provides the court may order information in the notice not be disclosed if it creates a significant risk of substantial harm to the relocating individual or child. Provides that not later than sixty (60) days after the receipt of the notice, a nonrelocating parent may file a motion seeking an order preventing the relocation of a child. If a party requests, the court shall hold a full evidentiary hearing on the relocation motion. The relocating individual has the burden of proof that the proposed relocation is made in good faith and for a legitimate reason. If the relocating individual meets this burden, the burden shifts to the nonrelocating parent to show the proposed relocation is not in the best interest of the child. States that the court may, after notice and opportunity to be heard or compliance with Trial Rule 65 (B) grant a temporary restraining order to prevent the relocation of a child or order the return of the child to the nonrelocating parent if the court finds

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the notice was not served in a timely manner, the child was relocated without the appropriate notice, an agreement between the parties or a court order or from the evidence presented at the temporary hearing, the court will not approve the relocation. The court may grant a temporary relocation of a child under certain circumstances.

S.E.A. 132, P.L. 145 *Department of Child Services Recodification* Effective July 1, 2006

Makes numerous technical amendments to the Department of Child Services legislation from 2005. Relocates the laws establishing the DCS to Ind. Code 31-25; Child Services Programs to Ind. Code 31-26; Regulation of Child Care to Ind. Code 31-27; Foster Care and Placement of Children to Ind. Code 31-28. Provides for criminal history background checks for employees and volunteers of various institutions and homes licensed by the DCS.

S.E.A. 139, P.L. 146, *Child services; paternity; wardship; hearing upon death of a child; time limits in CHINS; other* Effective July 1, 2006

States a caseworker or a probation officer is included in the definition of who may make an emergency out-of-home placement based on exigent circumstances. [Note: Only a name-based record check is required after this placement.] Provides this emergency placement may be immediate. Provides an emergency out-of-home placement does not include a proposed or actual change in the child's placement after a detention hearing, unless a court or agency determines an immediate change in placement is necessary to protect the health or safety of a child. Provides that the fingerprints for the FBI fingerprint based criminal record check shall be submitted within fifteen (15) calendar days after the name based criminal history record check was conducted.

Provides a paternity affidavit gives rise to parental rights and responsibilities, including inclusion in the child support order a requirement that health insurance coverage for the child be included and reasonable parenting time rights be included unless a court determines otherwise. Provides the paternity affidavit may be filed with the court by DCS. Provides only the man described in the paternity affidavit may ask a court for a paternity test within sixty (60) days of its execution. After sixty (60) days, the paternity affidavit may not be rescinded unless a court determines fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit, and, at the request of a man who is a party to the paternity affidavit, has ordered a genetic test, and the test indicates that the man is excluded as the father of the child. Provides the court may not set aside the paternity affidavit unless a genetic test excludes the person who executed the paternity affidavit. Provides if a man executes a paternity affidavit, the executed paternity affidavit conclusively establishes the man as the legal father of the child without any further court proceedings.

Amends Ind. Code § 31-34-1 to define custodian to include any person who is a license applicant or licensee of a foster home, residential child care facility, child care center, child care home or a person responsible for the care, supervision or welfare of children while providing services as an employee or volunteer at a home, center or facility mentioned above or a school. Amends Ind. Code § 31-9-2-123 to define "substantiated" for a child abuse or neglect report to mean a determination the facts in the report provided by the preponderance of evidence, rather than credible evidence, that abuse or neglect occurred. Defines "wardship" under Indiana law to mean the responsibility for temporary care and custody of a child by transferring the rights and obligation from the child's parent, guardian or custodian to the person granted wardship. Except to the extent limited by court order establishing the wardship, the rights and obligation of the

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person granted wardship include making decisions concerning the (1) physical custody of the child; (2) care and supervision of the child; (3) child's visitation with parents, relatives, or other individuals; and (4) medical care and treatment of the child. Requires a court to set an initial hearing in four (4) business days when the custodial parent or guardian of a child dies or is unable to care for a child, after a petition is filed requesting the hearing. The court shall determine an emergency placement for the child. A court is not required to set a hearing if (1) it appears from the pleadings no emergency placement with a person other than the noncustodial parent exists, (2) it appears from the pleadings the petitioner does not have a reasonable likelihood of success on the merits, or (3) manifest injustice would result.

Establishes the state central collection unit within the Child Support Bureau to collect all noncash child support payments. Provides that the Child Support Bureau will administer Title IV-D child support collection and adds Ind. Code § 31-25-4-14.1 to establish a program to permit a prosecuting attorney to contract with a collection agency to collect child support. Provides IV-D incentive monies be distributed in the following manner: 22.2% to the county general fund; 33.4% to the prosecuting attorney; 22.2% to the circuit court clerk; and 22.2% to the state Title IV-D agency. States the County Clerk may only accept support payments paid in cash. This section is effective January 1, 2007.

Permits child welfare caseworkers to access all cases or investigations involving the child or family member of the child, not just those assigned to the caseworker. Permits a court, in a CHINS case, which releases a child to the child's parents, guardians or custodians after a detention hearing, to impose conditions on the child or the parent, guardian or custodian to ensure the safety of the child's physical or mental health.

Requires a court to complete a factfinding hearing in CHINS case within 60 days after a CHINS petition is filed. A court is permitted to extend the time to complete a fact-finding hearing an additional 60 days if all parties in the action consent to the additional time. Provides that at the close of evidence and before a judgment is entered, if the court continues the case for not more than twelve (12) months, the Department of Child Services, in addition to the child or the child's parent, guardian or custodian, may request the judgment be entered. Provides that the juvenile court shall complete a dispositional hearing not more than thirty (30) days after the date the court finds the child is a CHINS. Permits the juvenile court, in a CHINS case, to incorporate a finding or conclusion from a predispositional report as a written finding or conclusion on the record in the court's dispositional decree. Provides the juvenile court shall order the DCS to file a progress report in a CHINS case every three (3) months after the dispositional decree is entered, but keeps the 6 month review hearings under present law. It removes a provision permitting the court to order the probation department to file a progress report on a dispositional decree in a CHINS case. Provides that a periodic case review may occur at any time after the progress report is filed. Provides that a report prepared reviewing the court's dispositional decree or for a periodic case review shall be made available to a foster parent unless the court determines it should not be released to the foster parent. Requires a hearing on a petition for the termination of parental rights to be commenced within ninety (90) days of filing and completed not more than one hundred and eighty (180) days after the petition is filed.

Permits a court, in a Delinquency case, which releases a child to the child's parents, guardians or custodians after a detention hearing, to impose conditions on the child or the parent, guardian or custodian to ensure the safety of the child's physical or mental health and/or the public's safety. Permits the juvenile court, in a Delinquency case, to incorporate a finding or conclusion from a predispositional report as a written finding or conclusion on the record in the

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court's dispositional decree. Provides that a report prepared reviewing the court's dispositional decree or for a periodic case review shall be made available to a foster parent unless the court determines it should not be released to the foster parent. Amends statutes concerning the clerk or state central collection unit collection of a \$30.00 fee in addition to support and maintenance payments, including income withholding orders.

S.E.A. 153, P.L. 148, *Child Support payments*

Effective July 1, 2006

Establishes a state central collection unit to collect all noncash child support payments and process child support paid through income withholding. Requires any party affected by a support order shall inform the clerk and state central support unit of any change of address not more than fifteen (15) days after the party's address changes. Requires the parties affected by the support order to inform the clerk and the state central collection unit of receipt of assistance under TANF. Requires beginning January 1, 2007, a court in dissolution, legal separation and support decrees to require support payments be made through the clerk or the state central collection unit as trustee for remittance to the person entitled to receive payments, unless the court has reasonable grounds for providing or approving another method of payment. Provides beginning January 1, 2007, child support payments in a case must be paid to the clerk and all noncash payments must be paid to the state central collection unit. Permits a collection agency that contracts with the Child Support Bureau or Prosecuting Attorney to collect a fee in addition to the collection of arrearages. Permits the Child Support Bureau may contract with a private entity to administer Title IV-D. Provides the Bureau shall establish service levels for Title IV-D activities of prosecutors, or private entities and shall disburse incentive monies based on meeting the service levels. Provides that notice of an income withholding order required from the Title IV-D agency include the cause number for each payee, the name of the obligor, the Social Security number of the obligor and the ISETS number for the payee. This section is effective March 24, 2006. Provides IV-D incentive monies be distributed in the following manner: 22.2% to the county general fund; 33.4% to the prosecuting attorney; 22.2% to the circuit court clerk; and 22.2% to the state Title IV-D agency. Provides the County Clerk may only accept support payments paid in cash effective January 1, 2007. Provides that the state central collection unit is not personally liable for errors disbursing funds to a person entitled to receive the funds in accordance with the best information available and to comply with a child support or garnishment order.

S.E.A. 193, P.L. 151, *Excluded Offenses: Methamphetamine*

Effective July 1, 2006

States a juvenile court does not have jurisdiction for an alleged violation of Ind. Code § 31-48-4-1.1, dealing in methamphetamine if the juvenile has a prior unrelated conviction or juvenile adjudication under this law, was at least sixteen (16) years of age at the time of the alleged violation.

H.E.A. 1156, P.L. 80, *Domestic Relations Counseling Bureau*

Effective July 1, 2006

Permits the majority of judges of the circuit and superior court to establish a Domestic Relations Counseling Bureau. Permits a Domestic Relations Counseling Bureau to adopt a schedule of fees, which is effective when the county fiscal body adopts an ordinance to create fund for the Bureau. The Bureau may provide screening, investigation, reporting, evaluation, counseling and mediation in addition to any other services ordered by the court. The county may appropriate monies to the fund to support the bureau and money in the fund at the end of the

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fiscal year does not revert to the county general fund. (Other provisions of this legislation are reviewed in the Judicial Administration section.)

H.E.A. 1232, P.L. 82, *Curfew*

Effective July 1, 2006

Adds to the defenses to a curfew violation that a child was participating in an activity undertaken at the prior written direction of the child's parent, guardian, or custodian.

H.E.A. 1347, P.L.185, *Student withdrawal from school*

Effective July 1, 2006

Requires at the exit interview for a withdrawal from a school due to financial hardship, illness or an order by a court that has jurisdiction over a child, a written acknowledgement which must include a statement the student and the parent understand that withdrawing from the school is likely to reduce the student's future earnings and increase the student's likelihood of the being unemployed in the future. Makes other changes in reporting information to the Indiana Department of Education, the Commission on Higher Education, establishes the "double-up for college" dual high school-college education program and makes other changes.

JUDICIAL ADMINISTRATION

S.E.A. 232, P.L. 4, *Jury service exemptions*

Effective July 1, 2006

Removes all jury exemptions. Amends jury statutes to provide that prospective jurors can defer service one time for not more than one year upon a showing of hardship, extreme inconvenience, or necessity. Provides that a prospective juror may not be subject to adverse employment action if the person notified the employer within a reasonable period after receiving the summons and before the person appears for service. These new sections also provide that an employee may not be required or requested to use annual vacation or sick leave for time spent responding to a summons for jury service, participating in jury selection, or serving on a jury. Amends Lake County jury statutes regarding disqualifications.

H.E.A. 1156, P.L. 80, *Various provisions concerning courts*

Effective March 17, 2006 (§ 1, 12-15, & 18-19), July 1, 2006 (§2-11 & 16-17)

States the maximum levy increase equals the unit's estimate of its share of the operating costs of a court for the first year. Defines the costs of operating a court include the costs of personal services, cost of supplies, and any other cost directly related to the operation of the court. Provides prospective jurors shall be drawn from lists approved by the Supreme Court. Provides that an employer may not subject a person summoned for jury service to any adverse employment action and an employee is not required to use annual, vacation, or sick leave for jury service. Also, the court shall reschedule a prospective juror if the prospective juror works for an employer with ten or less employees and another employee is already performing jury service. Expands the Marion County Superior Court to 35 judges beginning in 2007 and to 36 judges beginning in 2009. Increase the total number of magistrates from four to eight beginning in 2008. Increases the court administration fee to three dollars (\$3).

H.E.A. 1158, P.L. 174, *Small claims, civil actions, and sheriff's fees*

Effective July 1, 2006

Clarifies that the small claims and civil service fees do not apply to garnishee defendants. Creates a new small claims and civil garnishee service fee of ten dollars (\$10) for each garnishee named in excess of three (3) garnishees. There is no charge for the first three garnishees. The

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garnishee service fees are retained in the local general fund. Increases the DNA sample processing fee to two dollars (\$2). Permits the sheriff to collect a service of process fee of \$13 from a party requesting service of a writ, order, process, notice, or other paper completed by the sheriff. Increases the sheriff's service of process fee to \$60 if the person to be served resided outside of Indiana.

MISCELLANEOUS

S.E.A. 300, P.L. 121, *Victim's Compensation Fund*

Effective March 21, 2006 (§4), July 1, 2006 (remaining sections)

Places fiscal discipline on the Victim's Compensation Fund, in part by changing the class of victims who can receive funds, requiring consideration of other resources given to the victims, placing limits on attorney's fees, and delaying the disbursement of funds until the investigation of the crimes is substantially complete. Permits only one claimant per victim to receive benefits. Requires documentation of certain expenses before a benefit may be awarded.

H.E.A. 1249, P.L. 44, *County Drug Free Community Fund*

Effective July 1, 2006

Provides that the criminal justice institute may deobligate funds to a local government entity if the entity fails to comply with the fund requirements. Provides a process to reinstate the funds. Provides that a local coordinating council shall be appointed and approved by the commission for a drug free Indiana. Requires the coordinating council to submit a comprehensive drug free communities plan for the approval of the commission before a county fiscal body appropriates county drug free community funds. Requires the coordinating council to determine the amount of funds that a county fiscal body shall appropriate to implement the objectives set forth in the plan. Provides that if a county legislative body allocates funds without the approval of the plan by the commission, the commission may: (1) appoint a new council; (2) freeze funds allocated by the county legislative body; or (3) reevaluate the plan.

PROBATE LAW

S.E.A. 114, P.L. 61, *Probate and trust matters*

Effective July 1, 2005 (§ 1-2, & 8), July 1, 2006 (§3-7, & 9)

Provides that a subsequent childless spouse who takes against a will shall receive 1/3 of the net personal estate plus 25% of the remainder of the fair market value of the real property minus the value of liens and encumbrances on the real property. Also, provides that the subsequent childless spouse receives 25% of the remainder of the fair market value of the real property minus the value of liens and encumbrances on the real property under the intestate succession provisions. Expands the powers the personal representative can exercise without order of the court in unsupervised estates. Increases the value of the gross estate for small claims affidavit to \$50,000. Requires the inclusion of the names and addresses of each person entitled to a share of the property, the person's share of the property, that each person listed in the affidavit has been notified by the claimant, and that the claimant is entitled to payment or delivery of property on behalf of each person listed in the affidavit. Specifies that a trustee can exercise a power that conflicts with trustee's individual interest or the trustee's interest as trustee in another trust if the trustee receives court authorization, if the trustee gives notice to and received written authorizations of all interested person, or the power is specifically authorized by

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the trust.

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**Jane Seigel, Executive Director
Jeffrey Bercovitz, Director of Juvenile and Family Law
Michael McMahon, Research Director
Jennifer Bauer, Staff Attorney
Michelle Goodman, Staff Attorney
Julie Sipe, Staff Attorney
Jennifer Weber, Staff Attorney**

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